

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

United States,)
) C/A No. 7:11-2363-TMC
)
 v.) **OPINION & ORDER**
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)
Sharon Burgess Wynn,)
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)
Defendant.)
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This matter is before the Court on Sharon Burgess Wynn's ("Defendant's") Motions to Reduce Sentence. (ECF Nos.186 and 191). Defendant seeks to reduce her sentence based on evidence of her post-sentencing rehabilitation pursuant to the United States Supreme Court's decision in *Pepper v. United States*, 562 U.S. ___, 131 S.Ct. 1229, 179 L.Ed.2d 196 (2011), and 18 U.S.C. § 3582(c). For the reasons stated below, Defendant's motions are denied.

On August 16, 2012, Defendant was sentenced by this court to 46 months imprisonment for conspiracy to distribute heroin in violation of 21 U.S.C. §§ 841(a)(1) and 846. (ECF No. 57). Defendant did not file a direct appeal.

In her motions, Defendant contends that her sentence should be modified pursuant to *Pepper v. United States*, 562 U.S. ___, 131 S.Ct. 1229, 179 L.Ed.2d 196 (2011), and 18 U.S.C. § 3582. Under § 3582(c), a court may only modify a defendant's sentence once it is imposed based on the limited circumstances enumerated in the statute. Post-sentencing rehabilitation is not among the grounds listed in the statute, and none of the other grounds apply to this case.

Furthermore, the Supreme Court's holding in *Pepper* is also inapplicable. In *Pepper*, the Court held that "when a defendant's sentence has been set aside on appeal and his case remanded for resentencing, a district court may consider evidence of a defendant's rehabilitation since his prior sentencing and that such evidence may, in appropriate cases, support a downward variance

from the advisory Guidelines range.” *Pepper*, 562 U.S. at ___, 131 S.Ct. at 1241. Here, Defendant’s sentence has not been set aside and Defendant is not before this court for resentencing. Accordingly, *Pepper* is inapplicable and Defendant’s Motions to Reduce Sentence (ECF Nos. 186 and 191) are **DENIED**.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Anderson, South Carolina
October 16, 2013

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.